

SERVICE DATE - JANUARY 3, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 638X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—IN KNOX COUNTY, OH

Decided: December 30, 2004

By decision and notice of interim trail use or abandonment (NITU) served on October 31, 2003, the Board granted the petition for exemption filed by CSX Transportation, Inc. (CSXT), for abandonment of an approximately 6.37-mile line of railroad, in CSXT's Midwest Region, Louisville Division, Lake Erie Subdivision, extending from milepost BQ-25.90, at Mt. Vernon, to milepost BQ-32.27, at Fredericktown, in Knox County, OH. The exemption was subject to public use, environmental, and standard employee protective conditions, as well as a trail use condition authorizing a 180-day period for the Knox County, OH Commissioners (Knox County) to negotiate an interim trail use/rail banking agreement with CSXT for the right-of-way involved in this proceeding. The negotiating period was extended through December 28, 2004, by decisions served on April 26, 2004, July 9, 2004, August 24, 2004, and September 2, 2004.

On December 28, 2004, CSXT and Knox County filed a request for an extension of the negotiating period until February 28, 2005. They state that the parties are actively engaged in negotiations, and that an extension of time is necessary to finalize negotiations.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended.¹ An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended to February 28, 2005.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The request of CSXT and Knox County to extend the NITU negotiating period is granted.

¹ See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997).

2. The negotiating period under the NITU is extended to February 28, 2005.
3. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams
Secretary